

DEFORE LINDA MCCULLOCH, SUPERINTENDENT OF PUBLIC INSTRUCTION STATE OF MONTANA

IN THE MATTER OF

OSPI 05PT - 2005-02

MEMORANDUM OPINION
AND ORDER

BACKGROUND

On September 14, 2005, the Office of Public Instruction received a complaint from said saturation and from said saturation and from Said saturation and claims that in light of these disabilities is entitled to transportation to and from school as a related service. School District [the District] timely challenged the sufficiency of the complaint.

LEGAL STANDARD

Because OPI received this complaint after July 1, 2005, its sufficiency must be measured by the standards set out in the December, 2004, amendments to IDEA known as "Individuals With Disabilities Education Improvement Act of 2004" [IDEIA] 20 USC §1400 et seq [the Act]. Sections 615(b)((7)(A)(ii) of the Act [20 [USC §1415(b)(7))A)(ii)] set out the matters that must be set out in a complaint, i.e.,

- (I) the name of the child, the address of the residence of the child, , , and the name of the school the child is attending;
- (II)
- (III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and
- (IV) a proposed resolution of the problem to the extent known and available to the party at the time.

Section 615(b)(7)(B) of the Act [20 USC §1415(b)(7)(B) provides that ". . . that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii)."

Sections 615(c)(2)(A) of IDIEA [20 USC §1415(c)(2)(A)] reads as follows:

The due process complaint notice required under subsection (b)(7)(A) of this section shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A) of this section.

ORDER

IT IS ORDERED that s's complaint be and it is hereby dismissed with leave granted to sparent to file an amended complaint that conforms to the standards set out above.

Dated this 30th day September 2005.

Ross W. Cannon, Hearing Officer

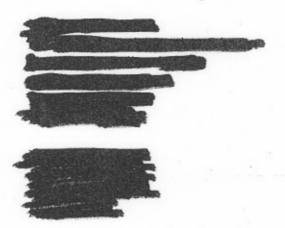
CERTIFICATE OF SERVICE

This is to certify that on the 30th day of September 2005, the foregoing Memorandum Opinion and Order was mailed first class; postage prepaid, and faxed as indicated:

Original:

Linda Brandon-Kjos Office of Public Instruction Legal Services P.O. Box 202501, State Capitol Helena, MT 59620-2501 Fax: 444-2893

Copies:



Ross W. Cannon, Hearing Officer

OSPI